

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Pamela Taber-McCarthy

Petitioner

v.

Ricky C. McCarthy

Respondent

Case Number 1:08-cv-96-PB

**PETITIONER’S MOTION FOR LEAVE TO FILE REPLY TO
RESPONDENT’S OBJECTION TO MOTION FOR REMAND**

The petitioner, Pamela Taber-McCarthy, hereby moves for leave to file a reply to *Respondent’s Objection to Petitioner’s Motion for Remand*. The grounds for this motion are set forth below.

1. *Respondent’s Amended Petition for Removal* appeared to identify “pleadings with the State Court seeking a further order with regards to the wording of the QDRO,” *id.* at ¶5, as the basis for removal to this Court. *See 28 U.S.C. § 1446(b)*.
2. Respondent now appears to be arguing that it was not the pleading filed on November 16, 2007 that was the basis for removal, but rather that Petitioner’s counsel “made an informal change in her position on March 13, 2008, and formal change of her position on March 14, 2008, in the brief

hearing before the state court marital master.” *Respondent’s Objection to Petitioner’s Motion for Remand* at ¶12.

3. Additionally, the relief requested by Respondent originally appeared to involve “a further order with regard to the wording of the QDRO.” *Respondent’s Amended Petition for Removal* at ¶5.
4. Now, however, Respondent appears to be seeking an advisory opinion from this Court regarding QDRO law. *Respondent’s Objection to Petitioner’s Motion for Remand* at ¶20 (“the federal court is not being asked to issue the QDRO. Rather, the court is being asked to interpret/apply federal law to a QDRO to determine whether or not the plan administrator is obligated to pay interest to the alternative payee.”)
5. Petitioner seeks leave to reply to these changes in Respondent’s position.
6. Petitioner’s reply is filed as an exhibit to this motion. *See Local Rule 7.1(e)(2)*.

WHEREFORE, the petitioner, Pamela Taber-McCarthy, respectfully requests that the Court:

- A. Grant this motion; and
- B. Grant such other and further relief as justice and equity require.

Respectfully submitted,

Pamela Taber-McCarthy,

By her Attorney

MOSCA LAW OFFICE

/s/ Edward C. Mosca
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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2008 I served the foregoing by ECF on Kevin Bucholz, Esquire. Counsel of record for Respondent, and by hand-delivering a copy to Law Office of Kathleen Sternenberg, 27 Webster Street, Manchester, NH 03104, counsel for Petitioner.

/s/ Edward C. Mosca
Edward C. Mosca